

**REMARKS/ARGUMENTS**

Claims 1-10 stand in the present application, claims 1-4 and 6-10 having been amended. Reconsideration and favorable action is respectfully requested in view of the above amendments and the following remarks.

In the Office Action, the Examiner has objected to claims 1, 2, 9 and 10 for lacking antecedent basis for the term "maximum error values." As noted above, these claims have been amended and the objected to term has been eliminated from the claims. Accordingly, the Examiner's objection to these claims is now believed to be moot.

The Examiner has rejected claims 1-2 and 9-10 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. As noted above, these claims have been amended and the indefinite terms identified by the Examiner have been eliminated from the claims. Accordingly, the Examiner's § 112, second paragraph, rejection of the claims is believed to have been overcome.

The Examiner has rejected claims 7 and 8 under 35 U.S.C. § 101 because they are both directed toward non-statutory subject matter. As noted above, Applicants have amended claims 7 and 8 in order to correct the deficiency noted by the Examiner. Accordingly, claims 7 and 8 as amended are believed to overcome the Examiner's § 101 rejection of these claims. In this regard, it is noted that support for the amendments to claims 7 and 8 can be found at page 2 of the present application and with reference to store 11.

The Examiner has also rejected claims 1-10 under 35 U.S.C. § 103(a) as being unpatentable over Aharoni et al. in view of Kubler et al. and further in view of Casper et al. Applicants respectfully traverse the Examiner's § 103 rejection of the claims.

As noted above, Applicants have amended the present claims to obviate the terminology "timing error." In Applicants' described embodiments the state of fullness  $T_B$  of the receiver buffer is ascertained and the "timing error is the expression of the left-hand side of equation (7) at page 5 of the present specification (which is also equal to  $T_h$  in equation (8)). The condition express by equation (7) or (8) is that this timing error does not exceed the current buffer fullness. So the "timing error" is actually the state of buffer fullness that is needed in order to avoid buffer underflow at some point in the future. Accordingly, the present claims have been amended to more clearly define Applicants' inventions.

In applying the cited art against the present claims, the Examiner admits that "Aharoni does not disclose a timing error in comparing the determined maximum error values with the ascertained buffer state." See Office Action at pages 6-7. For this deficiency, the Examiner relies on Kubler at page 20, paragraph 299, lines 1-11 but it is clear that the cited paragraph in Kubler is concerned with timing errors in the sense of clock synchronization errors. Thus, with regard to the above-described claim amendments, it is now clear that Applicants' invention is concerned with controlling selection of streams in such a manner as to avoid buffer underflow, and that Kubler's teaching is of no relevance to this at all. Moreover, the Examiner has cited Casper merely for disclosing comparing the determined maximum error values with the

ascertained buffer state. Accordingly Casper does not solve the deficiencies noted above with respect to Aharoni and Kubler with respect to the amended present claims.

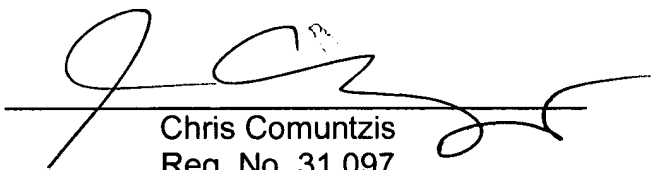
Accordingly, claims 1-10 are believed to patentably define over the cited references taken either singly or in combination.

Therefore, in view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all of claims 1-10, standing in the application, be allowed and that the case be passed to issue. If there are any other issues remaining which the Examiner believes could be resolved through either a supplemental response or an Examiner's amendment, the Examiner is respectfully requested to contact the undersigned at the local telephone exchange indicated below.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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